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Managing Disability Equality in Scotland: Tensions between Social Audit and Disability Equality

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This paper focuses on the implications of adopting social audit approaches in order to implement equality policies in Scotland, exploring the tension between surface compliance and deep institutional engagement. Drawing on data from an evaluation of public sector bodies' disability equality schemes, the paper provides examples of different levels of engagement, ranging from surface compliance (some education authorities) to institutional permeation of an equalities ethos (the Scottish Arts Council). The paper concludes by considering the future potential of single equality schemes to promote equality across Scottish society. It is argued that unless there is stronger support and challenge from Scottish government, there is a danger that equality schemes may become paper exercises rather than opportunities for institutional reflection and planning. At the same time, it would be a mistake to dismiss equality planning as merely an exercise in managerialism, since measuring the extent of inequality over time is an essential first step in the long process of achieving institutional change.

Introduction

The Disability Discrimination Act (DDA) 1995 (as amended) was important legislation both practically and symbolically (Gooding, 2000), somewhat belatedly recognising disability as an equality strand on a par with race and gender. The terms of the legislation recognised disabled people as a group requiring additional legal protection compared with that available to non-disabled people in order to level an unequal playing field. To avoid discriminatory practices, duties were placed on service providers and employers to avoid less favourable treatment and make reasonable adjustments. As with race and gender, there has recently been a new emphasis on positive action to promote equality between disabled and non-disabled people through the requirement on public sector bodies to produce and implement disability equality schemes. In Scotland, the duty to promote equality of opportunity for disabled people is contained within the Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005. This article explores the impact of disability equality schemes as a means of achieving social progress for disabled people in Scotland. Based on a thematic analysis of the 273 disability equality schemes produced by public authorities in Scotland (see web links to reports by ministerial portfolio below¹), it considers the way in which public sector bodies have responded to the new regulations, and the extent to which the first annual reports reveal a willingness to engage critically with the spirit of disability equality planning, rather

than simply treating it as a paper exercise in routine compliance. Before examining data relating to two specific public sector spheres in Scotland (education and the arts), we provide a brief review of the treatment of equality in the Scottish public sector and the application of new public management principles to this arena.

Approaches to equality in the Scottish policy context

Scotland has an image of itself as a society characterised by fairness and collectivism, with a strong emphasis on democratic intellectualism (Devine, 1999). Despite this self-image, it is evident that equality policy and practice has been relatively slow to take root. For example, in central social policy fields, such as education, a body of work on gender and education did not begin to develop until the mid-1990s, much later than comparable developments in England (Riddell, 2008). This was also the case in relation to 'race' (Netto *et al.*, 2001). For at least 20 years, politics in Scotland was dominated at local and national levels by the Labour Party, and the public policy agenda was dominated by social justice policies emphasising redistribution rather than recognition (see Fraser and Honneth, 2003, for a discussion of these terms and the relationship between them). The previous Labour administration at Holyrood, for example, instituted the *Closing the Opportunity Gap* programme, which established a set of targets for reducing socially differentiated outcomes in education and other social policy fields, with a focus on socio-economic status and measures of area deprivation rather than measures relating to the six equality strands recognised by the Equality and Human Rights Commission (gender, race, disability, religion/belief, age, sexual orientation). The present Scottish National Party (SNP) minority administration, which came to power in 2007, has placed less emphasis on redistributive measures, and its economic strategy identifies growth of GDP as its central mission, with the aim of creating a 'wealthier and fairer society' (Scottish Government, 2007). Within its political discourse, the language of fairness has tended to replace that of equality (Jarvis and Gardner, 2009), although one of the national indicators focuses on tackling 'significant inequalities' in Scottish society. However, what counts as a significant inequality, and how such an inequality might be tackled, is not further elaborated. The SNP administration has produced a strategy to tackle poverty and inequality (Scottish Government, 2008), but the focus is on alleviating the economic position of those at the bottom, rather than regulating the wealth of those at the top. Other forms of justice such as that of recognitional or associational justice (Gerwitz, 2006) do not feature explicitly within the strategy.

It is also worth noting that the relationship between Scottish Government and local authorities has changed considerably since the election of the SNP Government in 2007 and the publication of a Concordat between COSLA (The Convention of Scottish Local Authorities) in November of that year. As part of its election manifesto, the SNP made a commitment to the freezing of council tax, but in return agreed with local authorities that government would allow them greater autonomy and less central government control. Under the terms of the Concordat, ring-fencing was removed from the grant from central government and local authorities were allowed to select which of the 15 national outcomes and 45 national indicators to prioritise in their strategic planning and service delivery. Concerns have been raised by a number of Scottish equality organisations with regard to the priority given to equalities within single outcome agreements by different local authorities. For example, an analysis of single outcome agreements (Engender,

2009) found that most local authorities did not appear to understand the way in which poverty was experienced differently by a range of social groups, treating it instead in an undifferentiated manner.

To summarise, whilst the rhetoric of social justice has featured prominently in Scottish political discourse for many years, the emphasis has been on rectifying socio-economic inequality rather than tackling inequalities associated with the six equality strands. Despite the dominance of this policy discourse, it is worth noting that there has been limited success in this area, for example an OECD report on equality and efficiency in Scottish education noted high levels of inequality in educational attainment strongly related to pupils' socio-economic background (OECD, 2007). Similarly, the National Equality Panel report (NEP, 2010) drew attention to high levels of wealth inequality in the UK compared with other developed countries, and noted that patterns of inequality in the devolved nations were just as great as those in England. At the same time, the dominance of this discourse has co-incided with a down-playing of identity politics associated with the six equality strands, and there has been commensurately little focus on issues, for example, of race and disability.

Before turning to findings of the research on Disability Equality Schemes commissioned by the Scottish Government, we examine the extent to which social justice goals can be achieved through the application of social audit principles and practices (Weedon *et al.*, 2008). Following Mackay and Bilton (2000), questions are raised about whether social audit approaches are able to bring about change within the deep structures of institutional life, or whether such approaches tend to reflect and promote surface compliance.

New public management and equality

Since the mid-1980s, public services in Scotland and the rest of the UK have been transformed by the advent of new public management, which, according to Newman (2000), refers to a series of reforms which:

reshaped the relations between public and private sectors, professionals and managers, and central and local government. Citizens and clients were recast as consumers and public service organisations were recast in the image of the business world. (Newman, 2000: 45)

The management of individual and organisational performance was increasingly emphasised, with indicators being used to assess progress against pre-specified goals. The 'audit society', drawing on financial audit practices, was extended to public services (Power, 1997). Regulatory systems meant that management could be devolved to the local level, whilst still being controlled from the centre. In addition, accountability regimes were intended not only to ensure service effectiveness and efficiency, but also to allow consumers of public services to choose between competing providers, thus fuelling markets. Public service professionals, rather than being distinct from managers, were increasingly co-opted into managerial roles (Exworthy and Halford, 1999). According to writers such as Ball (2003), this caused considerable psychological tension as devices such as appraisal and inspection pressurised individuals to internalise responsibility for problems which were often structural in nature.

There are ongoing debates about whether modes of working associated with new managerialism (Clarke and Newman, 1997), such as equality impact assessments and

target-setting, are capable of promoting social justice goals (Clarke *et al.*, 2000; Exworthy and Halford, 1999). On the one hand, critics of new public management maintain that regimes intended to foster accountability and transparency may simply be used to limit the creativity of professionals, to distort performance by encouraging minimal compliance with targets and ultimately to breed a climate of mistrust (Power, 1997; Ball, 2003). Lawn and Ozga (2009) comment on the growth of governance through the use of quantitative performance indicators in European education. They point out that considerable costs and demands in time and effort are involved in collecting, circulating and analysing data, and that the volume means that people may drown in information. Similarly, local expertise may be displaced by technical experts who are able to manipulate the data, and pressures may be placed on local practitioners because of expectations for constantly improving performance. On the other hand, proponents of new public management argue that effective public services can only be delivered when appropriate goals and values are identified and targets used to assess progress. The conclusion of the ESRC Public Services Programme is that performance indicators, if used sensitively, may be very effective at improving performance and focusing attention on specific areas (Hood *et al.*, 2009; Talbot, 2010). Hood *et al.*, for example, whilst noting the perverse incentives which may accompany an audit culture, note that over the past decade England has placed more emphasis on high stakes performance indicators than its neighbours. As a result, they argue, in certain areas, such as cutting waiting times for NHS treatments, England appears to have achieved relatively greater success than Scotland. Riddell *et al.* (2005) also noted that in the field of direct payments to disabled people for community care, much greater progress had been made in many English local authorities compared with their Scottish counterparts, partly as a result of including use of direct payments within the English star-rating system, whilst in Scotland no targets have been used.

Despite the misgivings of some, it is evident that equality policy and practice is increasingly couched within managerialist rhetoric and practice. For example, the Race Relations (Amendment) Act 2000, the Disability Act 2005 and the Equality Act 2006 all place a duty on public sector organisations to actively promote equality, as do a raft of Scottish regulations. In order to demonstrate compliance, institutions must produce action plans which present data on the social characteristics of service users and staff, identify any disproportionalities and set targets for rectifying any inequalities, enabling progress to be charted over time. However, as will be discussed further below, in the field of equality there is a strong emphasis on self-regulation, and performance regimes tend to be low-stakes rather than high-stakes, with no financial or legal penalties attending poor performance.

In the following sections, we explore the use of disability equality schemes in education and the arts in Scotland, examining the areas which have been identified for action, the consultation processes which are evident, the implicit understandings of disability and the extent to which progress is evident.

Disability equality schemes and education

In the disability equality schemes and annual reports of the 32 Scottish education authorities, and of the eight grant-aided special schools, commitments were made to a range of actions, including training and awareness raising, improvements to the physical environment and equipment, improving access to the curriculum for disabled pupils,

strengthening links with other groups concerned with the care and support of disabled pupils and involving disabled pupils and their families in the development and monitoring of disability equality schemes. However, as noted below, many of the actions planned were vague and aspirational.

All the plans made reference to further training for staff in relation to the disability equality duty, always including head teachers, and often all staff in schools. However, the length and content of such training was generally unspecified and had not been evaluated. Many of the education authorities referred to their accessibility strategy, produced in response to the Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002. The contents of local authority disability equality schemes for education, and their accessibility strategies, were usually seen as overlapping, and some authorities simply attached their accessibility strategy action plan, listing equipment acquired, new lifts, handrails, signage, ramps and stairlifts installed and improvements to access to their buildings. Local authorities generally had less to say about improving access to teaching and learning, although some mentioned use of information technology, communication aids and accessible teaching and learning materials.

Many of the schemes stressed the importance of collaboration in improving the opportunities available to disabled pupils. Local disability fora, and voluntary sector organisations working with disabled children and their families were mentioned in consultation plans, although the extent, nature and outcomes of such involvement was often unclear. Many action plans stressed the importance of communication, especially with parents, and involving parents and children in decision-making. However, they again failed to evidence how well such efforts were working, and research conducted at about the same time indicated that a significant minority of parents of children with additional support needs had encountered serious communication difficulties with teachers and local authority officers (Weedon and Riddell, 2009; Riddell and Weedon, 2010). Parents featuring in case studies in this research found that parental concerns were often belittled or ignored, information on routes of redress was withheld, and as a result confidence in the system was very low. However, none of these critical voices featured in any of the consultation activities reported by local authorities.

An area of central importance where very little evidence was presented in any disability equality scheme concerned the progress and achievement of disabled children. Indeed, most schemes and annual reports contained relatively little statistical data, either about the numbers of children or about their progress and achievement.

There was also evidence that education authorities did not have a clear understanding of the DDA definition of disability, and were therefore unable to conceptualise which children should be counted as disabled. One local authority complained:

The focus on disability equality as a result of the DED comes at a time when the Council has also been concerned with compliance and proper implementation of the Additional Support for Learning Act (AsfL). Whereas the AsfL asks schools to consider whether a child is experiencing barriers to learning, the DED asks schools to classify individuals according to impairments, based on a wide ranging definition of disability.

Schools have taken on board the inclusiveness of the term 'additional support needs' as described within the AsfLA and understand that this term can include gifted and talented pupils, those suffering temporary emotional upsets or those requiring English as an additional language support. This definition is a radical move away from the impairment focussed definition of 'special educational needs' that was in use as recently as 2004.

In order to fulfil the DED the Council is also now asking schools to identify disabled pupils individually and this seems to represent a move away from a social model of disability towards a medical model of disability.

All of this is serving to cause confusion as schools struggle to reconcile the differences between the definition of disability and the definition of additional support needs.

The combined effects of establishing new local data gathering systems, new national reporting requirements and the tension between the DED and AsfL definitions have presented the Council with a significant challenge in respect of data collection. It is hoped that these matters can be resolved at a national level in order that local authorities can begin to improve both the quality and the quantity of disability data.

Another local authority argued that it was invidious and contrary to the principles of inclusion to identify some children as disabled:

Our vision is accepting that everyone is unique, and that by working in partnership, respecting everyone's contribution, embracing difference and ensuring equity in everything we do, we aim to give every individual the opportunity to reach his/her full potential.

In addressing the Disability Equality Duty, it was important therefore that involving children, young people, their families and staff did not undermine the inclusive ethos of the Additional Support for Learning Act by singling out only those affected by disability. It would be hard to access a discrete group of children and young people when they are included in school with their peers. Those not affected by disability would also be able to contribute to the process because of their knowledge of disability through their regular contact with those who are affected by disability or ill health.

To summarise, it appeared that most local authorities responded to the requirement to produce a disability equality scheme and action plan for education in a largely formulaic way, often simply reproducing their accessibility strategy, required as a result of earlier legislation. Local authorities appeared to misunderstand or dispute the DDA definition of disability, preferring to use the concept of professionally defined needs, and were therefore unable to present statistical data on the achievements and progress of disabled children. Consultation with parents and children was supported in principle, but there was little evidence of the adoption of a systematic and critical approach. The impression given was that parents and voluntary organisations were entirely satisfied with the education received by disabled children, although research conducted at about the same time suggested otherwise. Overall, local authorities' disability equality schemes in relation to education seem to reflect a surface compliance approach, rather than a deep institutional engagement likely to produce systemic change. In the following sections, we explore the approaches to disability equality planning taken by organisations involved in the arts and culture in Scotland, where one organisation stood out as being particularly pro-active.

Disability equality schemes and the arts and culture

A range of public authorities in partnership with organisations within the voluntary sector provide for arts and culture in Scotland. However, six bodies² have the strategic

responsibility for leadership, shaping and delivery for culture and arts in Scotland. While levels of attendance and participation in arts and cultural activities have been tracked and studied in Scotland since 1991, it was not until 2004 that these studies addressed issues of disability in any depth. Enabling physical access to services was a clear top priority for all bodies. Alongside access issues were also considerations on how to improve marketing and communication to disabled people as well as setting up forums, networks and mechanisms to involve disabled people in advising for improved provision. In some cases, it was difficult to assess whether the reported activity preceded the duty or was being undertaken directly as a result of new obligations arising from the duty. In some bodies, it was clear that work to alter the design of buildings to improve access preceded the commencement of the duty.

The practice of public bodies regarding equality impact assessment varied considerably. This ranged from one body not mentioning impact assessment at all, to another where all key staff had been offered training on how to carry out equality impact assessment together, resulting in the piloting of a toolkit within the organisation on the topic. However, the absence of statements about assessment within the disability equality annual reports of all these public bodies meant it was not always possible to verify outcomes. What was clear was that there was less progress in this area as the majority of bodies were unfamiliar with equality impact assessment frameworks and what was required of them.

All viewed training as an essential activity to raise employee awareness of and sensitivities to disability issues as well as a way of raising the profile of disabled people as potential employees. As part of prioritising customer care, initial training was offered in the first instance to front-of-house staff. Some bodies have extended training to board members and senior managers. In general, there was a lack of evaluation of the quality and effectiveness of the training provided.

A range of positive activities demonstrated the importance placed by arts and culture bodies on the need to improve communication and marketing to disabled people. The initiatives included ensuring web accessibility, encouraging partner organisations to provide better facilities for disabled people, promoting positive images of disabled people within marketing material and setting up improved mechanisms for obtaining audience feedback.

The public duty appeared to have heightened public bodies' awareness of the importance of consulting disabled employees and service users. Efforts had been made to encourage more disabled people to apply for positions within the organisation and once employed to pursue career progression. The views of disabled service users were sought on reducing barriers to participation and identifying areas for remedial action, although some consultations appeared somewhat tokenistic. Disabled people were also under-represented amongst senior management teams.

All bodies were aware of the heterogeneous nature of the disabled population, but there had been a focus on improving access for people with physical and sensory impairments rather than those with mental health and learning difficulties. In addition, there was less evidence of how these bodies were addressing issues such as disability-related harassment as part of workplace culture or dignity-at-work initiatives. Though these bodies outlined areas for action in their respective disability schemes, progress was rarely publicly reported, for example through progress statements within disability scheme annual reports. The absence of clear baseline data from which progress

could be benchmarked and monitored meant that the impact of the disability equality duty was difficult to measure or discuss.

Whilst most arts organisations were at an early stage in embedding awareness of disability issues in organisational policies and practices, the Scottish Arts Council (SAC) stood out as sector-leading.

SAC's scheme was characterised by its conceptual clarity, the use of hard and soft data to inform the action plan and the existence of SMART³ targets. At the outset, the scheme located itself firmly within a social model of disability, acknowledging that many barriers are caused by societal attitudes and organisational failure to take into account the needs of disabled people. The model also takes a pro-active stance to counter negative and stereotypical images of disabled people, sending out a strong message not only to disabled people and organisations working with them, but also to all who partner and receive funds from SAC. SAC's scheme was also unusual in considering the access issues faced by people with a range of impairments, including mental health issues, and designing consultation mechanisms to reach a wide range of service users.

SAC had collected data relating to disabled people's access to culture and the arts since 2001 and therefore had a large data base of quantitative and qualitative data on which to base their analysis of priorities for action. For example, research and consultation identified that disabled people and organisations expected SAC to take a leadership role in educating the arts communities and grant-holders about disability issues. Responding to this expectation, SAC funded an ongoing programme of disability equality training and refresher sessions to ensure that work commissioned, developed or directly supported by SAC would meet disabled people's access needs, which might include audio description, captioning and multi-sensory elements. Another issue identified was the need to provide more professional training and opportunities for disabled artists. As a result, an initiative to promote the involvement of disabled people in the theatre was developed, leading to increased visibility of disabled actors and dancers.

SAC had also attempted to embed disability issues into its publications and reports, for example the review of SAC strategies from 2002 to 2007⁴ (Scottish Arts Council, 2010) documented successes as well as future challenges. There was also a note of realism in assessing change to date. For example, the 2007/8 progress report explained that each element of change 'has taken much longer than planned to complete. We had underestimated the number of people affected by even minor changes to policies and practices, and the length of time needed to make such changes' (SAC, 2008:11).⁵

Conclusion

In the introductory section of this paper, we raised questions about the extent to which managerialist practices may be used to promote social justice. The analysis of the disability equality schemes produced by Scottish public bodies provides much evidence of the way in which equality planning may be reduced to a narrow, technicist and ultimately meaningless activity, in which a relatively junior employee is instructed to undertake an essentially box-ticking exercise. In the case of education authorities, there was evidence of a rejection of the discourse of disability rights, with continued adherence to the discourse of needs in which professionals retain power over resource allocation. Many authorities failed to conduct meaningful consultation, produce robust action plans and monitor progress over time. Annual reports tended to produce a bland and partial analysis

which failed to recognise future challenges and unavoidable resource constraints. Some of these problems were also evident in the disability equality schemes of arts and culture organisations, although the Scottish Arts Council stood out as a public body with a much more thoroughgoing commitment to disability equality issues and institutional change. This suggests that equality planning may not be an entirely doomed exercise, but may be capable of producing deep institutional transformation if taken seriously at all levels of the organisation and strongly promoted by management. Critical elements influencing the success of the equality planning process seem to include an understanding of the politics of disability (Oliver, 1998). Whilst physical adjustments such as ramps, technical aids and equipment are important, their provision needs to be underpinned by an understanding of disability as 'a product of an unequal society' (Oliver, 1998: 1448). Such an understanding would inevitably lead to the questioning and transformation of organisational values as well as their structural features. Instead of rejecting disability equality planning as a pointless paper exercise, there is a need to insist that it is undertaken in a more thoughtful and rigorous manner. Furthermore, in the light of the implementation of the public sector duty on socio-economic status introduced by the Equality Bill, to be enacted in 2010, there is a need for a much greater sensitivity to the challenges of inter-sectionality, recognising that, as pointed out by the National Equality Panel (NEP, 2010), differences in experiences and outcomes within groups (for example, amongst disabled people) are likely to be far greater than differences between groups.

Overall, it is clear that for local authorities to promote equality within service delivery there is a need for greater focus, awareness and direction of service providers and departments. However, the current public sector funding squeeze, coupled with government emphasis on the merits of the small state, mean that in the future local authorities are likely to be far less active advancing the equality agenda.

Notes

1 Reporting On Progress Towards Equality Of Opportunity Between Disabled Persons And Other Persons Made By Public Authorities In Scotland: The Scottish Ministers' Duties (28/11/08): Education and Lifelong Learning, www.scotland.gov.uk/Publications/2008/11/28145548. Finance and Sustainable Growth, www.scotland.gov.uk/Publications/2008/11/28145225. Health and Wellbeing, www.scotland.gov.uk/Publications/2008/11/28145142. Justice, www.scotland.gov.uk/Publications/2008/11/28145502. Proposals for the Coordination of Action by Scottish Public Authorities, <http://www.scotland.gov.uk/Publications/2008/11/28145418>

2 Bord Na Galidhlig, the National Galleries of Scotland, the National Library of Scotland, the National Museums of Scotland, the Scottish Arts Council and Scottish Screen.

3 SMART targets (Specific, Measurable, Achievable, Realistic, Time-sensitive).

4 <http://www.scottisharts.org.uk/1/information/publications/1006986.aspx>

5 <http://www.scottisharts.org.uk/DownloadPublication.aspx?pub=19337>.

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